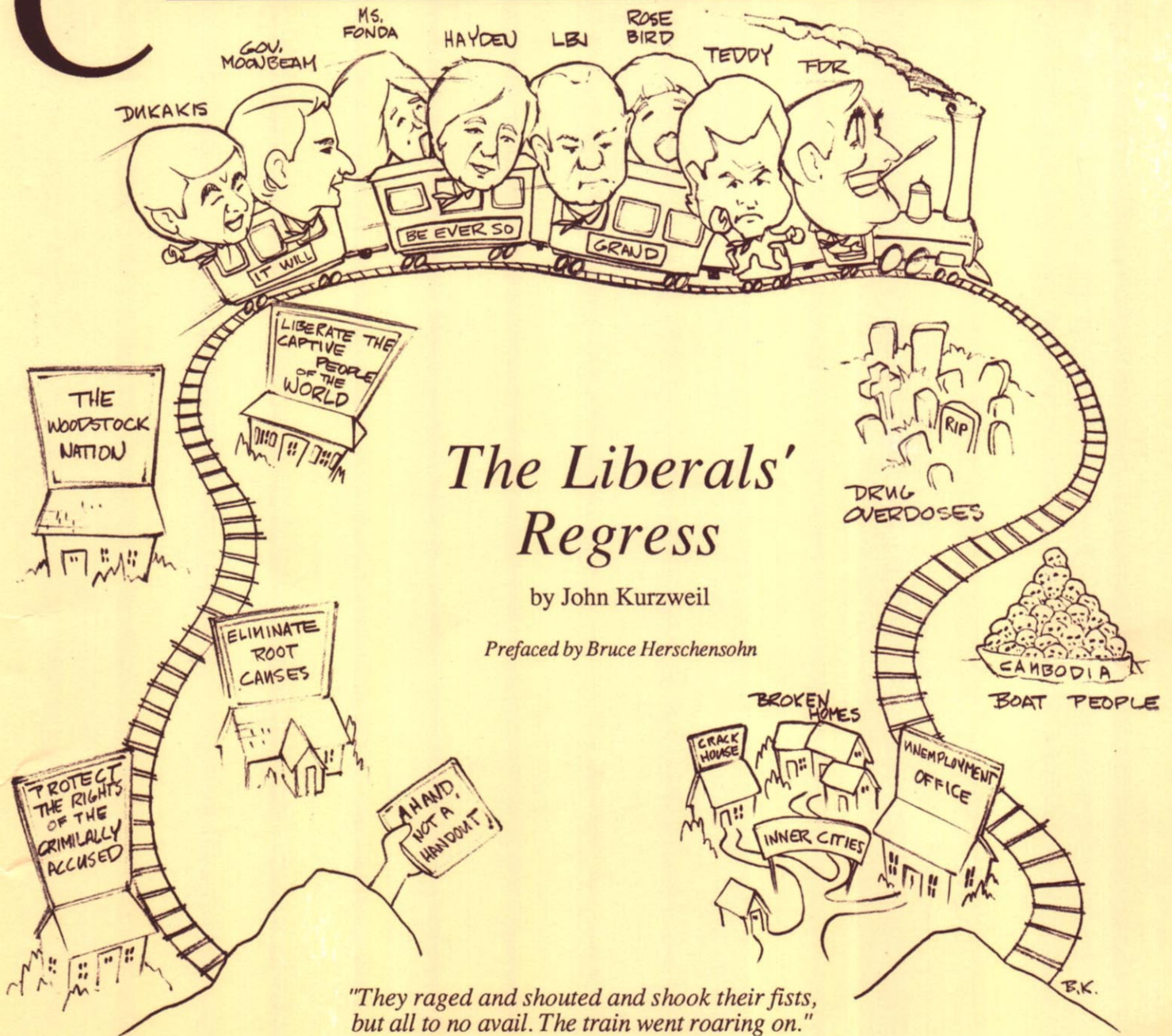


# California Political Review



## The Liberals' Regress

by John Kurzweil

Prefaced by Bruce Herschensohn

Also:  
The Clean Air Crusaders  
by Steven Hayward

A Conversation with  
William Rusher

Newt Gingrich on  
The Republican Era

# C alifornia Political Review

Winter 1990

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*A publication of the California Public Policy Foundation*

## Correspondence

### Kudos and Huzzahs

During my years in public service, there have been a wide variety of opinions regarding ways to make California a better place to live. Unfortunately, there have not always been as wide a variety of forums for these different viewpoints. The *California Political Review* will help ensure that all viewpoints are placed before the public for their consideration.

Hon. George Deukmejian  
Sacramento

Congratulations on the publication of the *California Political Review*. The *Review* will provide insight and depth to issues which directly impact the citizens of California. I applaud your efforts - keep up the good work.

Hon. David Dreier  
Washington, D.C.

What a happy development that California will have a new quarterly with such a vital perspective as *California Political Review*. The state's pundits need it. Best of luck.

K. E. Grubbs Jr.  
Editorial and Commentary Director  
*Orange County Register*  
Santa Ana

Congratulations on the *California Political Review*. We wish you much success. The project is long overdue.

Ronald A. Zumbrun  
President, Pacific Legal Foundation  
Sacramento

Your idea for a conservative journal is very timely. Conservatives need to be inspired and motivated today. We will all benefit from your efforts.

Hon. John T. Doolittle  
Sacramento

Congratulations on the founding of the *California Political Review*. We need more high-quality conservative publications to report honestly on the failures of liberalism. I look forward to reading *CPR* regularly.

Hon. Patrick J. Nolan  
Glendale

I am pleased to read of *California Political Review*. We have too long accepted what hardly rises beyond the level of gossip as the *extent* of political discourse here in California. Your effort ought to inspire more serious, as well as more consistently conservative, reflection.

Professor William B. Allen  
Claremont

I trust the *California Political Review* will become an incubator of conservative solutions to many public policy problems that have long baffled liberals. Best wishes to the staff of *CPR*.

Hon. Michael D. Antonovich  
Los Angeles

Finally, instead of complaining about bias in the media, someone is doing something about it. *California Political Review* has been sorely needed.

Kathleen Crow  
Pasadena

There is a great need for a California conservative journal capable of challenging the bankrupt liberal philosophies pushed down our throats by the major media. I wish you all the best in this endeavor.

Joseph Farah  
Editor, *Between the Lines*  
Palos Verdes

The *California Political Review* promises to sweep clean the dusty corridors of political thought and analysis in the

Golden State. Its mission--to assess the impact of a quarter century of the Reagan Revolution in California, the prospects and pitfalls for its revolutionaries, and the likely shape and source of the counter-revolution. I wish you much good luck with your new venture.

Hon. C. Christopher Cox  
Washington, D.C.

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*A publication of the California Public Policy Foundation*

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# Commentary

## Selective Civil Rights

The civil rights establishment is selective in the kind of injustice it condemns. For instance, it's all right to wink at discrimination against Asian-Americans, as Rep. Dana Rohrabacher learned when he introduced a resolution in Congress opposing discrimination against Asian-American students in university admissions. Is the civil-rights leadership joining his campaign for equal opportunity? Far from it. In fact, prominent liberals are sniping at the proposal. Opposition has even come from such Asian-American Democrat politicians as Rep. Robert Matsui of Sacramento.

What's their beef? It isn't that Rohrabacher's concerns are not valid. There is no question he's on the mark. He cites an internal memo from UCLA's admissions director saying the campus "will endeavor to curb the decline of Caucasian students," and suggesting the result would be fewer Asian-American students. Likewise, UC Berkeley's chancellor has said, "It is clear that decisions made in the admissions process indisputably had a disproportionate impact on Asians." As Rohrabacher says, "That is academic gobbledegook for: 'We discriminate.'"

The injustice is real. Why, then, would an effort to fight it draw fire from liberals who boast of a commitment to equal rights? Quite simply, because their boast is hollow. They have long since abandoned the idea of equal justice in favor of special perks for key constituencies. We're talking about race-conscious affirmative action — quota systems that, like old-fashioned racist laws, judge people by race or sex, not by their inherent value as human beings.

Even so, why would Asian-American liberals like Matsui join in? Partly for political reasons. They don't want to grant legitimacy to civil rights concerns expressed by Republicans. Also, some Asian-American politicians, like self-anointed leaders of other ethnic groups, have a stake in the affirmative action mentality. Their prestige partly depends on a continued national fixation with things that divide Americans rather than those that unite us.

The civil rights movement began by advocating a color-blind America. It gained well-deserved prestige by championing the essential American political principles articulated in the Declaration of Independence. In aca-

demic admissions policy, as in other areas of public life, it would be wise to return to this noble beginning.

## Defeating El Salvador's Terrorists

The attack on El Salvador by communist guerrillas succeeded in diverting attention from Daniel Ortega's Nicaraguan campaign to annihilate the Contras, which was probably its primary objective. Similarly, the killing of the Jesuits neatly diverted attention from the massive violence of the Salvadoran communists during their latest attack on their country's young democracy.

Both events play on liberals' predilection, in any conflict, to locate and focus condemnation on the elements the liberals conclude are on the right. As the *Wall Street Journal* noted, up until the killing of the priests, the communist assault on San Salvador was reported with little or no commentary from the media or liberal politicians. But after the killings — which provided an opportunity to condemn "right-wingers" — suddenly Senators Kennedy, Cranston, and Dodd, and California's own Lt. Gov. Leo McCarthy were denouncing the violence and, of course, demanding that U.S. military aid to El Salvador's democratically-elected government be cut off. (The same prejudice is evident in liberal discussions of democracy versus communism in China, the Soviet Union, or Berlin, where the communists must be labeled "conservatives" before correct liberal opinion permits criticism of them.)

This obsession with finding and blaming elements on the right obscures the genuine conflict between most Salvadorans who want a peaceful, free democracy and the tiny minority of killers who have been fighting for more than 10 years to keep alive El Salvador's tradition of settling political differences through violence.

Terrorist attacks, such as the murder of the priests, serve the same purpose whether the perpetrators are communists, Nazis, or any other variety of anti-democratic thug. It is to convince people that peace is impossible, much less rule of law, free markets, or any of the other elements of democracy, and that the only solution for the country's troubles is war. The communists keep falling back on it because they can't win popular support in any peaceful way. Their candidate, Guillermo Ungo, received less than 5 percent of the vote in El Salvador's last presidential election.

Over the years, the Salvadoran Left and its "opponents" in the "death squads" have come to depend upon one another to justify their violent methods. In 1972, for instance, when the Christian Democrat

candidate, Jose Napoleon Duarte, was elected president in the first fair elections El Salvador had seen in 40 years, he was picked up, beaten by police, and forced to flee the country. The incident provided helpful impetus for the terrorist war that soon began to engulf El Salvador and that continues today. Each death squad attack helps the communists to convince more Salvadorans that war is the only answer. Subsequent communist violence then convinces other Salvadorans that war alone will preserve order in the country.

Into this mix are added Soviet, Cuban, and Nicaraguan weapons and ammunition for the communists, along with demands by U.S. liberals that military aid be denied El Salvador's democratically-elected leaders and that those leaders be forced to negotiate with the communist killers. The communists, in turn, demand to be made part of the government. We are told that this would constitute a "political solution," in contrast to the evil of a "military solution." But including people in El Salvador's government who can't win a place there through free elections would precisely constitute a military solution. The Cristiani government would have been forced to cave in to the guerrillas solely to avoid further violence and bloodshed.

The communists' "right" to govern would be that of conquest, won through their ability to endanger the lives of innocent Salvadorans day or night. Granting such a right would be to repudiate the principles of legality, democracy, and freedom that American liberals say they want to preserve. It would endorse the very political despotism and intolerance the Left itself insists it is fighting to end. Worst of all, it would carry on, newly ratified, the ideas of the past when every political question in El Salvador was answered through recourse to guns and killing.

Somehow, even after Vietnam, Cambodia, Laos, Iran, and Nicaragua, liberals haven't learned that abandoning American allies under attack by communist terrorists is a poor way to promote either human rights or peace. U.S. military aid to El Salvador's democratic leaders is promoting both human rights and peace. It is nonsense to suggest it should be stopped.

## The Issue That Won't Go Away

*Cardinal Wolsey said:*

*"Let the dynasty die with Henry the Eighth and we'll have dynastic wars again — blood-witted barons ramping the country from end to end. Is that what you want? Very well. England needs an*

*heir. Certain measures, perhaps regrettable . . . [are] necessary to get us an heir. Now, explain how you, as a Counselor of England, can obstruct these measures for the sake of your own private conscience."*

*And Thomas More answered:*

*"Well, I think that when statesmen forsake their own private conscience for the sake of their public duties, they lead their country, by a short route, to chaos."*

— *A Man For All Seasons*

Abortion, we are told, has resurfaced as the hottest political issue in American politics, and perhaps nowhere more so than here in California where the topic has arisen repeatedly in a series of special election campaigns. A close look at these controversies, however, reveals that, on both sides, they are concerned less with the fundamental issue of abortion than with the question whether or not abortion is a proper political issue at all. Moreover, perhaps remarkably — though perhaps not really so remarkably — the politicians of both parties seem largely to agree, with greater or lesser enthusiasm, that it should *not* be a political issue and that people should have the decency to stop raising it.

On the Republican side, slithery characters like state Sen. John Seymour tell us that, though he still thinks abortion is bad, he now considers it a matter of private, not public, business. An A.P. headline informs that "Abortion Issue Will Fade, White House Says."

As for the Democrats, most of their party leaders argue strongly that abortion is strictly a matter of private choice and therefore an inadmissible issue for political debate or government action (except that taxpayers ought to be forced to pay for it).

From the beginning, when Justice Harry Blackmun, in *Roe v. Wade*, declared it unnecessary for the court to determine whether or not the unborn are human, through Gerald Ford's declarations that abortion was a "phony" issue in the mid-'70s, and on to the present, American political leaders of both parties, both liberal and conservative, have tried consistently to find some way to make the issue go away.

Their evasiveness is, in a sense, understandable. Some moral questions are easy — should the Berlin Wall come down? for instance — because everyone agrees on their answer. But it is not so, of course, with abortion. Moreover, whatever guilt is to be borne regarding the Berlin Wall, little, if any, of it belongs to

Americans, at least directly. American politicians who condemn the Wall don't risk condemning their audience in the process. Again, however, it is not so when answering the central moral question about abortion. That question is: Is abortion a morally neutral operation like an appendectomy or the taking of an innocent human life? Setting out to answer *that* question holds the fearful potential of directly implicating millions of Americans who have participated in, condoned, or otherwise supported abortion in a terrible evil carried out on a mass scale. That's why merely raising the question unleashes astonishing fury and makes the timid souls of our political leaders quake.

It also explains the relativist spirit of the opposition to asking the question. A handy way to rationalize ignoring difficult moral questions is, like Wolsey, to relegate such "matters of conscience" to the realm of subjective personal opinion where, supposedly, there is no right or wrong, except that it is wrong to impose such opinions upon one's neighbors. But this itself is an arbitrary moral conclusion and, as such, is ludicrously hypocritical.

Moral questions are at the heart of every important public policy debate. Even the *Roe* decision depended upon invocation of a moral right to privacy that the court majority arbitrarily decided was more important than the question of the unborn's humanity *and* every one of the state laws regulating abortion. Blackmun's right to privacy is the pro-abortionists' "higher law."

Besides its hypocrisy, the "private conscience" maneuver has also proven futile. This issue stubbornly refuses to go away, which shouldn't surprise anyone. Who, for instance, would expect an average American, driving at night, to drive on after hitting something large in the dark without stopping to see if it might be a person, injured and needing care? In the same way, normal people will not go on forever ignoring the possibility that the unborn *might* be human. The moral implications involved are too profound for that.

As it happens, America has seen this sort of thing before. In the 1850s, Stephen Douglas took careful pains to make it clear that he personally did not care whether individual states voted for or against slavery. His only concern was that they be given the right to choose. Abraham Lincoln responded that Douglas's indifference was equivalent to "blowing out the moral lights around us." Eventually, the monumental moral issue of slavery had to be faced despite the terrible pain that facing it entailed.

The whole Left-wing argument is that individuals,

especially individual consciences, are unimportant; only mass institutions and accumulations of power matter. Thomas More and Abraham Lincoln knew better. Our political "leaders" should stop indulging cowardice, hypocrisy, and evasion of moral responsibility and address the real question: abortion, not its propriety as an issue. Hiding from it is futile. It won't go away.

## The Long March Through the Law

During the 1960s, Rudi Dutschke, the German edition of Mark Rudd, announced a "long march through the institutions" of Western society and culture by radical Leftists. The revolution would proceed through a long-term campaign of penetrating and chipping away at the building blocks of self-government in the West's educational, religious, political, legal, and other institutions, removing the barriers to the Leftist tyranny dear Rudi had in mind for us. If you've been wondering how the Long March is progressing in one area, the law, Robert Bork has written a book on the subject — *The Tempting of America: The Political Seduction of the Law* — well worth reading. Even more interesting and valuable, however, is Bork's fascinating exposition of that many-faceted wonder, self-government. If the radicals' Long March serves any good purpose, it will be to stimulate greater appreciation for this magnificent thing the Left has tried so hard to destroy.

The most obvious and tempting target in this campaign is the rule of law and the dedication of judges to uphold it. Judges are largely removed from electoral politics specifically to help them remain neutral umpires, applying the law, not their policy preferences, impartially. Subverting judges' neutrality is a perennial goal of would-be tyrants both to undermine the rule of law and to then use the judges' undemocratic power to attack self-government across a wide front.

Subverting the judiciary is made easier, of course, if it is already corrupted by politics. Bork assays a lengthy history of lawless policy-making by American judges that follows a standard pattern: a political goal the judges could achieve is dangled temptingly before the courts and the people. *Just this once — it would be so easy — if we bend the rules only a little, so much good would follow.* The damage to the law and judicial integrity is minimized or obfuscated or simply lied about by the political partisans on and off the bench who desperately desire to uphold slavery (*Dred Scott*), stop government regulation of business (*Lochner*), or allow the New Deal to proceed (*Carolene Products*). Precedents are set

## Sacramento Spectator

### Tricia and the GOP

The special election in San Diego County's 76th Assembly district generated inordinate press coverage, mostly because an openly pro-abortion candidate, Patricia Hunter, won the Republican primary. Press interest was also piqued because many Assembly Republican leaders and some GOP organizations refused to support Hunter in the run-off, backing instead a write-in campaign by Dick Lyles, who finished second to Hunter by less than 200 votes in the primary.

Some comments: first, the press was engaging in wishful thinking in trumpeting Hunter's victory as signaling a pro-abortion ascendancy in the GOP. This was an open primary. Democrats could, and did, vote for Hunter. Also, as the only pro-abortion candidate on the ballot, she received 30 percent of the vote, while pro-life candidates received 70 percent.

As for Hunter's GOP opposition, it had little to do with her pro-abortion stance and everything to do with her record as a life-long union activist who has never been an active Republican and whose positions on a wide range of issues are virtually indistinguishable from Willie Brown or Michael Dukakis. Sending her into the Assembly Republican Caucus is like electing Jesse Helms to the U.S. Senate as a Democrat and expecting him to be welcomed with open arms. That, not abortion, is the reason so many Republicans hoped Hunter would lose the special election.

Conventional media wisdom has it that though Pete Wilson is dull, John Van de Kamp is even duller (*c'est possible?*), and since Diane Feinstein can't beat Van de Kamp in the Democrat primary, Wilson wins. The disturbing fact is not that the media or even the Democrats seem to be buying this line, but that much of the Republican Party establishment is buying it too. Does anyone here remember President Dewey?

Pundits point to Wilson's "easy" victory over Leo McCarthy in 1988. But, even though Wilson won by nearly 600,000 votes, he received only about 54 percent after outspending McCarthy by several million dollars. Also, the competition on television from the presidential and insurance initiative campaigns muffled McCarthy's message to the voters.

Wilson won't have this luxury next year. Although Van de Kamp is certainly dull, he is also shrewd and conniving in a way that makes Leo McCarthy look like a choir boy. Van de Kamp has been viciously partisan in the use of his office. Unlike McCarthy, he's shown a willingness to go for the jugular. And Democrat money givers will make sure Van de Kamp is well funded. It's not that Wilson is a likely loser, just that he

is no certain winner. Somebody please give Tom Dewey's phone number to Pete Wilson.

The other item of ongoing interest in the Capitol is the FBI's now more than one-year-old "sting" operation. You may recall it involved a phony business set up by FBI agents to test the connection between money and votes in Sacramento. In August 1988, agents raided two Republican and two Democrat offices in the State Capitol in connection with the investigation. At the time of the raid, there were no hints that partisanship was involved. Now, however, some interesting and disturbing theories are making the rounds.

To follow the story, you need to know that the first to be caught in the FBI net was John Shahabian, a veteran Democrat staffer for Senate President David Roberti, among others. When Shahabian saw the FBI's evidence against him, he agreed to become part of their operation, wearing a hidden microphone in hopes of gathering evidence against other legislators and staffers. So far, so good. It is the investigation's direction from this point on that raises eyebrows.

Shahabian is suspected by some of leading the FBI away from friends and powerful Democrats while focusing attention on Republicans and his or Roberti's Democrat enemies. The FBI raided the offices of Assembly Republican Leader Pat Nolan, Republican Assemblyman Frank Hill, Democrat Assemblywoman Gwen Moore, and Democrat Sen. Joseph Montoya.

Moore, though a committee chairwoman, is not considered an influential figure. Nolan, as Assembly Republican leader, guided the GOP to a three-seat gain in 1986, its best showing in a decade, and put together a working coalition with dissident Democrats so effective that, on many issues, they, not Speaker Willie Brown, controlled the majority in the Assembly. Hill, a high-ranking Nolan lieutenant, was the Assembly's chief Republican fund raiser. Under Hill and Nolan, Assembly Republicans, for the first time, had become competitive with the Democrats in fund raising.

Sen. Montoya had defied Roberti by voting to confirm Dan Lungren, Gov. Deukmejian's nominee for Treasurer. Roberti had staked his prestige on defeating Lungren and was rumored to have promised retaliation against any Democrat who voted for Lungren. Montoya was such a Democrat.

So the net result of the FBI investigation was to implicate (1) a Democrat senator marked for retaliation by Shahabian's former boss, (2) the Assembly Republican Leader, and (3) the chief Republican fund raiser in the State Assembly. So far, only Montoya has been indicted. In the meantime, Nolan and Hill twist slowly in the wind. And also, not incidentally, the Republican election effort was totally disrupted in 1988.

Coincidence, or was the FBI used for partisan political purposes? The question warrants investigation. It will be interesting to see how long the Democrats in the Legislature and their media allies keep the story buried.

— A. P. C.

that, although they themselves address narrowly-defined circumstances, are soon applied far more generally without the delicate caveats and sophisticated nuances that made the initial exercise seem so harmless. By Earl Warren's time, the Supreme Court, in *Baker v. Carr* (one man, one vote), *Miranda v. Arizona* ("You have the right to remain silent..."), and a very long list of other cases, made it apparent that the judicial references to the constitution were meant only to mask outright judicial policy-making. Finally, the transparent dishonesty of the charade breeds a cynical acceptance. "The sin [of cynicism] is mortal," wrote Alexander M. Bickel (quoted by Bork), "because it propagates a self-validating picture of reality. If men are told complacently enough that this is how things are, they will become accustomed to it and accept it. And in the end this is how things will be."

The door is finally opened wide not only to allow the law to be ignored, but also to carry on the pretense that the law has been served when everyone knows that that is exactly what has *not* been done. The final irony comes when all the pretense and delusion, multiplied and folded over onto itself, is fully accepted, and the acceptance is called "legal realism." This is what passes for integrity in America's law schools these days. As Bork writes, the Long March is far advanced.

Bork's chronicle reminds us that the first meaning of self-government is governing oneself — adhering to essential moral norms, one of which is honesty. The rule of law, after all, is essentially nothing more than an agreement that people will deal honestly with one another. The constitution's ratification and the passage of laws represent agreements between and among the interested parties that this is how things will be. Judicial activism breaks those agreements; it is inherently dishonest. The lies used to cover up the fraud are consistent with it. Put the other way, it would be strangely inconsistent if judges broke the law and then *didn't* lie about it. The whole argument for the "activism" is that dishonesty is good when put to a worthy cause.

In this context, one begins to understand the otherwise unbelievable bald-faced lying of Bork's enemies at his confirmation hearings. Sen. Edward Kennedy repeatedly distorted Bork's ideas and record in ways the good senator had to know were false, calling him "racist" and "sexist" and, most ludicrously, "hostile to the rule of law," as if Kennedy wanted to leave no doubt about his willingness to say anything that might help his cause. We confront more than flawed character here. Kennedy's systematic dishonesty was part of

a larger statement that nothing — not the law, not the truth — nothing mattered more than political victory.

Tyranny is the sweeping away of every consideration — every rule, every agreement, every law — that stands against the tyrant's will. It is in every way the opposite of self-government, which applies to each individual, rulers and ruled alike, in a democracy. Self-government is rule of law: it depends absolutely upon the willingness of the people to abide by the rules — to govern themselves. Men like Sen. Kennedy represent the breakdown of self-government at every level. His willingness to break the rule of honesty is of a piece with his support of judicial law-breaking. He's just the sort of man opponents of self-government are looking for: one willing to sacrifice everything from personal honesty to popular sovereignty in service to "worthy" political goals. Alas, he is not unique.

"Professors and academic disciplines that once possessed a life and structure of their own," Bork writes, "have steadily succumbed, in some cases almost entirely, to the belief that nothing matters beyond politically desirable results, however achieved....It is coming to be denied that anything counts, not logic, not objectivity, not even intellectual honesty, that stands in the way of the 'correct' political outcome." This is the objective of Dutschke's Long March.

What timing these liberals have! Tienanmen Square, Berlin, El Salvador, the Philippines, Lebanon — events in every part of the world show unmistakably how difficult it is to build the institutions of self-government, how horrifying life is without them, and that people will sacrifice everything to gain them. Putting it mildly, it's ironic that America's legal establishment should chose now to abandon that which makes this nation the hope and envy of all the world.

## End Notes

When Roman Catholic Bishop Roger Mahoney advises abandoning El Salvador to communist terrorism — the sort of peace plan that worked so well for Vietnam, Cambodia, and Laos — he is said to be lending a moral voice to the debate. When Roman Catholic Bishop Leo T. Maher, attending to a matter of internal church discipline, bans a pro-abortion politician from receiving communion, he's condemned for thrusting religion into the sacred realm of politics. Obviously, a double standard is at work. Just as obviously, it would be unwise to hold one's breath until any of the big guns of the liberal moral indignation squad take notice.

# The Liberals' Regress

by  
John Kurzweil

*John Kurzweil has done a superb job of both researching and explaining one of the great political failures of our time. His article is one that should be read and saved by every American who cares about past, present, and future directions of this country because it details so well that the choices societies face are always the same. On most decisions there is a choice between personal security and personal liberties with liberalism in this country having veered further and further towards personal security emphasizing a more powerful central government. John Kurzweil has masterfully described how what used to be a proud political philosophy has reached the brink of suicide.*

—Bruce Herschensohn

IN OCTOBER 1988, a writer for the *Wall Street Journal* came to California and interviewed Rep. George E. Brown Jr. of California's 36th Congressional district. Brown is one of Congress's most liberal members, though he represents one of California's most conservative areas, the "Inland Empire." Even so, Brown wasn't worried about the upcoming election. Its outcome, as the *Journal* put it, "was decided months, even years, ago" — in Brown's favor — through a combination of "gerrymander, dominance over political money, and liberalism cloaked in conservative rhetoric."

Though that was the reporter's conclusion, Rep. Brown hardly disputed it. Regarding the gerrymander: "I think it was essential," he told the *Journal*. "This district could just as easily have its Democrats spread among several others." Just as easily perhaps, but not nearly so helpfully for the incumbent. Brown's district boundaries were drawn with enormous care and precision to purge just the right proportion of Republican

precincts while drawing in every available Democrat neighborhood to guarantee the incumbent maximum advantage. For good measure, though, Brown acknowledged that, as a 12-term member of a 34-year Democrat House majority, he'd have no trouble outspending his opponent two-to-one, relying upon labor and business PACs and, if necessary, funds generated by the "Waxman-Berman machine." "Henry [Rep. Waxman] called me last week and asked if I'm in any trouble," Brown told the *Journal*. "I said, 'I don't think so, but we can always use the money.' So he sent the maximum [\$6,000]." He added that "several dozen congressmen are waiting for a call" if more funds prove necessary.

And what does all the money buy? An image Brown can sell to his conservative constituents more easily than the truth. According to the article, "Mr. Brown tells constituents [with the help of Waxman-Berman-financed campaign literature] he supports greater defense spending, though he regularly votes for less; and that he 'voted for the stronger death-penalty provisions in the 1988 Drug Act,' though he had opposed the death-penalty amendment. 'I'm not happy having to do this,' he concedes, 'but what can you do? That's the way politics is run these days.'"

Especially liberal politics. Liberals like George Brown operate in an increasingly strange political environment. They believe in policies that even the slowest-witted voters are realizing have failed consistently, and so can't espouse them in public. They must instead tip-toe around their districts like agents behind enemy lines, pretending to oppose ideas and positions they actually support. The cover-up usually works, with the help of gerrymandering, the fund raising advantages of incumbency, and the reluctance of California's news media to talk about it. Conservative politicians recognize the importance of ending the gerrymander and

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*John Kurzweil is editor of California Political Review.*

have wisely produced several initiatives designed to do so in 1990. But more should be done to tell the story of the political collapse of liberalism following upon the failure of its policies. Liberal editors and reporters can't reasonably be expected to pursue the story aggressively. It is critical, however, that it be told, and conservatives should do the telling. It has three parts:

FIRST, LIBERALISM has reached a crisis. Its policies having failed to deliver as promised, the cause is no longer popular. Its champions must resort to distorting the record, both their own and that of their ideology, and rely upon gerrymandering and the advantages of office to hold power — not, all in all, the formula of a healthy political movement.

Second, the crisis is not superficial; it hasn't resulted from Ronald Reagan's talents on television, from the fickleness of the voters, from inept campaigns or from the venality and stupidity of liberals in office. These elements have played their part, as such things do in all human endeavor. But even if none had been present, the crisis would have arrived anyway. Its causes lie in the root assumptions of the Left, assumptions liberalism shares: that what is needed is to redistribute, rather than create, wealth, that our first task is to feed the body and worry about the soul later, and that achieving power, rather than freedom, is the key to success.

The third aspect of the story is that liberalism is an aberration not shared by many people really. Most Americans know that forcing others to share with them is a short-sighted and demeaning way of providing for oneself. They also know that moral considerations outweigh material ones, and that, left free, they will solve or adjust to life's difficulties better on their own than through the efforts, well-meant or otherwise, of government. What follows is a more detailed look at the story, but is by no means exhaustive. It is intended to stimulate more writers to undertake the project.

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## The Liberal Crisis I

### Policy Failures and the Defection of the Voters

#### *The Judiciary*

ABOUT THE time it began to seem Supreme Court nominee Judge Robert Bork would not be confirmed by the U.S. Senate, liberal columnists and legal writers

began drawing supposed parallels between the cases of Bork and former California Chief Justice Rose Elizabeth Bird, wringing their hands about the "politicization" of the judiciary these cases represented. Typically, though, they confined their analysis to the campaigns that were waged against these justices, ignoring their records on the bench. For example:

"Bird lost because of the multimillion-dollar, mass-media and direct mail campaign mounted by her opponents," David Broder wrote in *The Washington Post*, "and if Bork goes down, it will be for the same reason."

Veteran Bird supporter Gerald F. Uelman, dean of the Santa Clara University Law School, wrote in the *Los Angeles Times* that "[i]t does not take an astute observer to see the parallels between the fight over Bork's nomination and the brawls over Supreme Court elections in many states last year [1986]. Those who spend money to influence public policy are realizing that a lot of the policy they want to influence is made by Supreme Court justices, and it takes a lot less money to affect the selection of justices than it does to elect legislators, governors, or a President."

A few days later, Harvard Law School's Alan Dershowitz took a slightly different tack. "While no one," he wrote in the *Times*, "can dispute the White House claim that the debate over the future of the Supreme Court has become highly political, two important questions remain: Who is primarily to blame for politicizing the judiciary, and can the process of politicization be reversed?" Dershowitz possessed the ready answer, which again turned out to depend upon the selection process: "During Ronald Reagan's nearly seven years in office, he has politicized the process for selecting all federal judges more than any president in recent history."

Looking at the processes by which judges are selected, retained, or rejected attends to the symptoms while ignoring the disease. Uelman came closest to the truth in his comment about "a lot" of policy being "made by Supreme Court justices." Justices who make a lot of policy are political. If they wish to avoid becoming political, they must make every effort to leave political (policy) decisions to the other branches of government. But this is not what liberals would have them do.

Judicial policy making was a highly-praised, central element of the post-World War II liberal program for America. Leonard Levy, in his 1972 book *The Supreme Court Under Earl Warren*, captured the liberal reaction of that period to judges as policy makers:

"When Earl Warren became Chief Justice of the United States in 1953," Levy wrote, "American constitutional law, like the nation that it served, stood poised at the brink between two worlds. One, which nothing short of lethal action could move or remove, deserved a speedy, contemptible death; it was the world of racism,

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*Employing the Dershowitz rule means that a once-politicized court must remain so forever — in the name of depoliticization!*

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political rottenboroughs, McCarthyism, discriminations against the poor, puritanical in sexual matters, denial of the suffrage and egregious infringements on the rights of the criminally accused. The other was a world struggling to be born, in which injustices would be remedied and the fundamental law of the land would have a liberating and egalitarian impact. The Supreme Court under Warren was a midwife to the newer world."

Thirteen years after Levy wrote, Mickey Kaus, son of former California Supreme Court Justice Otto Kaus, reminded liberals supporting Bird of their roots.

"It is certainly a bit late," Kaus wrote in *The New Republic*, "for California's liberals to start complaining of politics polluting the judiciary. Like their counterparts elsewhere, they have long championed the role of judges as bold social reformers. One California justice, the late Matthew Tobriner, used to give speeches on the court's obligation to react to 'the economic imbalance in our society' and 'the plight of the economically downtrodden.' If judges are going to claim such a broad right to respond to 'society's demands' (as Tobriner put it), then it's hard to deny society, at election time, its right to demand something else."

A particularly insidious result of the liberal success in capturing and using the Supreme Court for political purposes is that it has politicized even the nomination of non-political judicial candidates. The presence of such a member on a court becomes a threat to whatever political movement the court has been serving. Thus, when Reagan nominated Bork — a man whose most characteristic belief is that judges should exclude extra-legal (including political) considerations from their decisions — Dershowitz identified a blatant "attempt to politicize the judiciary." If the Court is already political, depoliticizing it will obviously have political impli-

cations. They are that politics will return to the elected branches where it belongs. Employing the Dershowitz rule means that a once-politicized court must remain so forever — in the name of depoliticization!

The "parallels" in the Bird and Bork cases were spurious because rejecting Bird carried the opposite meaning with regard to politics in court that rejecting Bork conveyed. Judicial politicking is what liberals have always expected from their judges. Their complaint against Bork was precisely that he would have failed to provide it with regard to cherished liberal political gains made through the courts.

In contrast, the evidence against Bird's "applying the law" as it came to her (which Broder seems to think she did) is mountainous. For just one example: when Bird joined in overruling provisions of the "victims bill of rights" (Proposition 8), dissenting Justices Stanley Mosk and (now Chief Justice) Malcolm Lucas wrote: "Once again, through a strained and unrealistic statutory construction, the majority has thwarted the obvious intent of the framers of, and voters for, Proposition 8." The case was by no means untypical.

Broder further implied in his column that it is equally unfair to characterize either Bird or Bork as judicial "extremists." In this regard, it is worth noting that while Bork was never overruled during his tenure on the bench, California's current Supreme Court, in a 6 to 1 opinion written by Mosk, overturned what the *Los Angeles Times* called "the most significant capital-punishment decision" issued under Bird, *Carlos vs. Superior Court*. And in January of 1986, long before any "multimillion-dollar mass-media" campaigning began, 118 (64 percent) of 184 California appeal and trial court judges who answered a *San Francisco Chronicle* poll said Bird should not be reconfirmed.

So, recalling Alan Dershowitz to the stand, we again ask, who is primarily to blame for politicizing the judiciary, and can the process of politicization be reversed? The answer to the first question is in the record. As for the second, the answer seems to depend upon whether liberals are on the losing or winning side. In California, where they lost, so did politics. In the Senate, politics won, and liberals rejoiced. But, unlike the old days when Leonard Levy could celebrate openly, now liberal columnists find politicized justice embarrassing. They scramble to condemn what they once welcomed and encouraged and search for scapegoats to blame for it. But, what can they do? Politicization has proven a fiasco, both in court and as public relations, so that's the way liberal politics is run these days.

*The Economy and Social Policy*

THE CENTERPIECE of liberal domestic policy since World War II is the War on Poverty begun during Lyndon Johnson's administration and continuing, though with far less hoopla than at the beginning, today. The War was to be far more than merely the implementation of new or expanded federal programs to help poor people. It represented, and continues to represent for most liberals, an across-the-board repudiation of an American past dishonorably marked, in their estimation, by narrow-minded bigotries, callous disregard for the less fortunate, and childish delusions that ours was a nation "with liberty and justice for all." It included "reforms" of the nation's legal, educational, and political systems; it sought the overthrow of many of the social mores and traditional values that had guided America from its founding and which liberals consider backward, stifling, and hypocritical; it was a revolutionary vision of a future in which Christ's remark that "the poor you have with you always" would finally, joyfully become part of history.

The central intellectual feature of the War on Poverty was the proposition that structural forces embedded deeply in America's social, economic, and political systems created barriers to wealth the poor could not overcome. These were the real, "root" causes of poverty. Until they were removed, the poor had no chance of escaping their plight. The old system had been limited to providing only the minimum level of charitable support required to keep people from starving. It relied primarily upon individual initiative and private, voluntary efforts to move people from want to wealth. This approach, liberals believe, completely missed the point that society, not the poor, is to blame for poverty. Blaming the poor only demoralized people already facing an impossible situation. Worse, it usually served as a hypocritical excuse for bigots, the selfish rich, and self-righteous moralizers to avoid addressing their own faults and poverty's real causes.

The poverty war's slogan was "a hand, not a hand-out." The "hand-outs" of the past perpetuated the problem with their tone of moral condemnation and irrelevance to the larger problem. Now, the powerful "hand" of the federal government would go to work to sweep away poverty's structural causes freeing poor Americans, once and for all and at long last, to help themselves. This was the War's revolutionary goal: the dole would end forever and America would no longer be divided into rich and poor, educated and ignorant,

or privileged and repressed. Society would cease holding men down but, instead, would clear a path they would follow upward toward dignity and equality.

Government power was duly mobilized. Between 1950 and 1980, federal social welfare spending — for

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public assistance, education, social insurance, housing, and health and medical costs — increased by 20 times, while the country's population increased by half. Also job training programs, soaring minimum wages, affirmative action plans, rent controls, VISTA programs, and a vast expansion of legal "remedies" to correct and dismantle an ever-lengthening list of injustices and structural barriers were thrown into the battle.

Liberals tend to consider implementation of a program the equivalent of the program's success and seldom bother checking, once the political battles are won, to see whether or not any good is actually coming from their undertakings. Fortunately, however, in the early 1980s, Charles Murray carefully researched the War's record and, in 1984, wrote a book, *Losing Ground*, compiling what he found. "The unadorned statistic gives pause," Murray wrote. "In 1968, as Lyndon Johnson left office, 13 percent of Americans were poor, using the official definition. And, in 1980, the percentage of poor Americans was - 13 percent." Bad as this lack of progress appears on the surface, the underlying failure of the War to achieve its main objective - ending the dole and eliminating dependency - is much worse. Going beyond mere failure, the massive effort first halted a steady trend of improvement in this regard and then aggravated the problem.

To measure the War's success in reducing America's dependent population, Murray subtracted all government payments (AFDC, Social Security, Disability Payments, SSI) from total reported income for the years 1950 to 1980. He wanted to track the "latent poor" — people "who show up below the poverty level in the official measure [which counts government transfers as part of income] plus those who are above

the poverty line in the official measure only by virtue of government support." He found that latent poverty had fallen between 1950, when it stood at about a third of the population, and 1965 ("up to the beginning of Johnson's War on Poverty"), when it reached 21 percent. "The proportion of latent poor continued to drop through 1968," Murray wrote, "when the percentage was calculated at 18.2. This proved to be the limit of progress. At some point during 1968-70, the percentage began to grow, reaching 19 percent in 1972, 21 percent in 1976, and 22 percent by 1980."

So much for ending the dole. The War on Poverty failed in its primary mission because it ignored the elementary wisdom Western man had gained through

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*In most cases, welfare risks  
engendering vice  
while trying to do good.*

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long experience with the difficult, often frustrating business of trying to help the poor. "The fifties," Murray wrote, "saw the last years of a consensus about the purposes of welfare that had survived with remarkably little alteration since the Republic was founded . . . . Its premise was elemental: A civilized society does not let its people starve in the streets." However, "[t]his decent provision was hedged with qualifications" because "[t]he very existence of a welfare system was assumed to have the inherent, intrinsic, unavoidable effect of undermining the moral character of the people." Thus, a sharp distinction was made between the "deserving poor" and "vagrants." People who are genuinely helpless by definition can't take responsibility for themselves and therefore can't have their moral character undermined by charity. But few people really can't help themselves at all, and fewer still remain helpless for long. In most cases, welfare risks engendering vice while trying to do good. This difficulty makes charity an infinitely complex business, best carried out on an individual basis through small institutions not only close enough to the recipient to know him intimately but also tied to him through bonds of love or friendship. Number one, of course, is the family, followed by religious organizations and other private efforts - George Bush's thousand points of light.

The architects of the Great Society, however, rejected this approach as naive and unjust. They set about rearranging society ignoring the possibility that they might be undermining peoples' incentives to care for them-

selves. The results have been disastrous. By the 1970s, Murray wrote, "[i]t was easier to get along without a job. It was easier for a man to have a baby without being responsible for it, for a woman to have a baby without having a husband. It was easier to get away with crime. Because it was easier for others to get away with crime, it was easier to support a drug habit. Because it was easier to get along without a job, it was easier to ignore education. Because it was easier to get along without a job, it was easier to walk away from a job and thereby accumulate a record as an unreliable employee." Or, as summarized in a recent *Los Angeles Times* editorial: "As more fathers refuse to provide, more children grow up in poverty. As divorce, drug abuse, teen-age pregnancy and other social problems become more pronounced, more families experience trouble. Hardest hit are black families. The majority of black families are headed by single women. The majority of black children grow up poor in depressed environments where unemployment, drug abuse, crime, illiteracy, and discrimination take a hard toll. In response to the obstacles, many black leaders are pushing self-help strategies during a summer drive to strengthen the black family."

The great liberal experiment in using government power to end economic and social troubles (in a word, socialism) has failed, both in America and abroad. That failure lies at the heart of the liberal crisis.

### *Foreign Affairs*

THE LIBERALS' quick acceptance of all sorts of dubious propositions in the War on Poverty betrayed a chronic weakness of left-leaning political movements. Their common assumptions are based almost completely on a critical analysis of conservative policies, ideas, values, and institutions. Little or no attention is given to testing and proving their own ideas or ideas still further to the left. Criticism flows in one direction only: to the right. The French long ago coined a phrase to describe this characteristic of left-wing thinking: *il n'y a pas d'ennemi à gauche* — there is no enemy to the left.

This predilection leaves liberals vulnerable, almost paralyzed, when attacked from their own left. They are undermined by their progressive view of history as a long, sometimes fitful, but ultimately irresistible process of liberating humanity from ancient evils. When more radical Leftists — those further along the road to the future — demand faster progress and accuse the relatively moderate liberals of backsliding and siding

with the evil reactionaries, the liberals can usually manage no more than a weak complaint that the radicals are moving too fast — a defense that not only reinforces the view of their opponents as the truly bold reformers, but also conveys an image of the liberals as having lost the courage and self-assurance to lead.

Nowhere is this weakness more evident than in foreign affairs. Its clearest demonstration came in the collapse of Lyndon Johnson's Vietnam policy and the 1972 capture of the Democrat party by George McGovern's more radical liberals. Employing assumptions similar to those they applied at home, the Johnson and Hubert Humphrey liberals assumed that the policies of America's Great Society would also end poverty and repression abroad and so favored an activist U.S. role in the world. They shared with their further-left opponents the tendency to sympathize with governments that proclaimed broad socialist goals and methods for governing, while opposing market-oriented policies and political movements. Communist and other violent anti-Western revolutionary insurgencies were, and still are, generally assumed across the liberal spectrum to be organic popular uprisings against unjust, right-wing repression and backwardness.

The break came over the question of the appropriate American response to revolutionary violence in foreign lands, specifically Vietnam. The moderates believed the violence had to be resisted, by military force when that proved necessary, to allow the liberal economic and political agenda they were applying the time necessary to eradicate the violence's "root causes." But the radicals rejected this approach which they branded a hypocritical cover-up for American exploitation — the true cause, they believed, of third world revolutions. America was not part of the solution, as the liberals supposed. On the contrary, the corrupting influence of the United States was the worst of the "root causes" underlying the world's troubles. The racism and other "structural" forces the War on Poverty was supposed to eradicate at home turned out also to be at work wherever "American power" was exerted abroad. The only just course for the United States was to tend to long-overdue reforms at home and spare the rest of the world any further meddling and exploitation.

The radical mindset of the era is described by Peter Collier in his book, co-authored with David Horowitz, *Destructive Generation*. Collier and Horowitz were editors of the radical magazine *Ramparts*, where the preferred targets, Collier wrote, were not conservatives, but liberals "who had taken the anti-Communism of the

Truman Doctrine . . . as an excuse to extend American power into every crevice of the globe." The old Democrat anti-communists, confronted with this sort of criticism in the late '60s, found no convincing response and were vanquished with surprising ease and speed between Humphrey's 1968 candidacy and McGovern's in 1972. Since then, no foreign policy moderate has won the Democrat nomination for president. And, consistent with the radical critique, since 1972 liberals have routinely condemned virtually any American role from Southeast Asia to Iran to Central America. *Il n'y a pas d'ennemi à gauche*.

But the McGovern liberals were quickly undermined by the same trap that brought down their predecessors. Ideologically incapable of attacking to their own left, the post-'72 liberals repeatedly found themselves absurdly blaming America for all the world's ills while advising a do-nothing response to every development, with catastrophic consequences from the boat people to the Ayatollah to the invasion of Afghanistan. Made impotent in their turn by their own ideology, today's liberals appear as unable to lead and as primed for a fall as the old guard came to seem some 20 years ago.

### *The Defection of the Voters*

*"Switching parties is not an easy thing to do; most people are born into a political party just as they are born into a religion. When McKeithen told his father, a former two-term Democratic governor of Louisiana, that he was switching, his father told him, 'You must be crazy,' but McKeithen responded by reminding his father that he hadn't voted for a Democrat for president in 20 years."*

— *The Sacramento Bee*, Aug. 24, 1989

SINCE THE beginning of 1988, 90,000 Louisiana Democrats have switched to the Republican party, including the Secretary of State, Fox McKeithen. A national Gallup poll, released in July, showed that Americans favor the Republican party in every category Gallup employs to measure party preference: keeping the country prosperous (51 to 31 percent), maintaining the peace (45 to 31 percent), and handling whatever issue respondents named as their top concern (33 to 27 percent). California Democrats account for a lower percentage of registered voters than at any time since 1932. Democrat Secretary of State March Fong Eu's

(Please turn to page 22)

# The Clean Air Crusaders

by  
Steven Hayward

LAST MARCH, Southern California took the first step toward what is being termed the "brave new world" of regional regulation. The South Coast Air Quality Management District (SCAQMD) approved a 20-year, three-tiered air pollution abatement plan that is being heralded as a "model for the nation." It is so long and complicated — the documents explaining it stack about six feet high — no one person can comprehend the whole of it. But considering its basic features, it is clear SCAQMD has devised an inflexible, bureaucratic plan that will be frightfully expensive, impose potentially impossible burdens on business, reduce employment by 50,000 jobs or more, and most probably fail to clean up the air. The air quality problem in Southern California, and SCAQMD's exorbitant plan to fix it, provides a perfect case study of what's wrong with American environmental policy, and how it increasingly ignores basic principles of economic rationality.

The plan includes hundreds of measures regulating specific sources of emissions, including restaurant charbroilers, auto body shop solvents and coatings, dry cleaning equipment, electric utilities, chemical processing and petroleum refining, and furniture manufacturing processes. It will ban or restrict many consumer products, including gas-powered lawn mowers, aerosol sprays, and even barbecue lighter fluid. ("Use a barbecue, go to jail," critics lampooned. Not true, says SCAQMD. But they admit they can sock you with a \$25,000 fine for using lighter fluid after the rule is implemented.) These measures, along with new measures for heavy industry (which already faces tough emission controls), will be implemented in the next five years, using already-existing technology. And yet, de-

spite the severe measures aimed at business and industry, the first tier of the plan barely touches the source of more than half the air pollution in the region — cars and trucks. Instead, the second and third tiers of the plan hope to reduce car and truck emissions through yet-to-be-developed technology, or "Buck Rogers" measures such as low emitting automobiles (either electric- or alternative fuel-powered). Considerable skepticism exists, even among some of the planners, that such technology will be available — at any price — within the plan's time frame. Put differently, the plan is the environmental equivalent of the Gramm-Rudman deficit reduction law. Just as Gramm-Rudman enacts across-the-board cuts on just one-third of the federal budget, so too the air quality plan seeks to achieve its reductions chiefly through tight regulation of stationary sources that generate less than half of the problem. As with Gramm-Rudman, it is fairly easy to predict that such a strategy won't work.

What, one might reasonably ask, will all this cost? SCAQMD says \$2.6 billion a year. The National Economic Research Associates (NERA), in a study commissioned by the California Council for Environmental and Economic Balance, estimated the cost to be \$12.8 billion per year, or \$2,200 per household in Southern California — five times SCAQMD's estimate. If NERA is right, the plan's cost would equal a *tripling* of the sales tax. What accounts for this large discrepancy in cost estimates? It turns out that a surprising number of the control measures in the plan are uncoded. Where SCAQMD was unable to estimate the cost of a measure, it counted the cost as zero. In all, 72 percent of the NOx (nitrogen oxide) control measures, and 47 percent of the ROG (reactive organic gases) control measures, are uncoded — more than half of the total measures in the plan. The chairman of the SCAQMD

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board, Riverside County Supervisor Norton Younglove, explained this peculiar procedure by saying that, where exact costs were not available, the District did not want to use "arbitrary figures." But of course, zero is the most arbitrary figure of all, not to mention highly convenient for the District.

NERA corrected for this bias in its cost estimate through a simple methodology. Using SCAQMD's cost figures for the control measures that *did* have cost estimates, NERA calculated an average cost-per-ton of emissions reduced for *all* the measures in the plan's first tier. NERA also estimated the costs for the second and third tiers by extending this average. Thus it came to the cost estimate of \$12.8 billion per year. It can easily be argued that even this estimate is conservative, given that many of the Tier II and Tier III control measures will require the development and implementation of new technologies. In addition, none of the economic reviews of the plan have attempted to go beyond an estimate of the direct cost of implementation to consider the opportunity costs the plan will effect on the region's economy. The costs to the economy in terms of lost productivity, new products and opportunities foregone, expansions delayed or prevented, managerial time taken up with reports and paperwork, and new employees not hired, could make the direct cost of implementation pale in comparison.

The cost of the plan, and its effect on the regional economy, is only half the story. The other half is the political phenomenon of the SCAQMD itself. SCAQMD represents the state-of-the-art expert government agency. It was created through a combination of state and federal mandates. Its unelected 12-member board serves *ex officio*, and is composed of nine local elected officials who rotate memberships with other elected officials in their subregion and three private citizens appointed by office holders in Sacramento.

What is most striking politically about SCAQMD is its near total autonomy. SCAQMD sets its own budget and sets fees and fines accordingly to cover it. Neither the state Legislature, nor Congress, nor any assembly of local government has any prerogative of review over SCAQMD's budget. SCAQMD, unlike most major government agencies, need not compete with other agencies for scarce tax funds within the normal legislative appropriations process. In this respect SCAQMD even surpasses the Environmental Protection Agency, which must get its annual budget from, and submit to the routine oversight of, Congress. Not surprisingly,

SCAQMD's budget and personnel have been rising rapidly, doubling in the last four years. SCAQMD is now an \$80 million, 1,000-employee agency, and certain to grow substantially larger each year.

Not only is SCAQMD sealed off from the ordinary political process, it is also wholly unaccountable to public opinion. Never are the voters of the South Coast Air Basin given an opportunity to vote on board members or on the policies the District adopts. Defenders of the District — including Rep. Jerry Lewis (R - Redlands), who wrote the law that created SCAQMD in 1978 when he was in the state Legislature — say that the extraordinary (you might even say "extraconstitu-

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*A House Commerce Committee report in 1977 conceded that "the 'safe threshold' concept is, as best, a necessary myth to permit the setting of some standards."*

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tional") structure and powers of SCAQMD are necessary because the air pollution crisis is extraordinary. But to say this is tacitly to assert that the normal institutions of democratic government, or an agency operating within the confines of the executive or legislative branches, are inadequate to deal with this problem. Such an argument can be made, of course, regarding nearly any serious problem facing the country. Such defenders of SCAQMD do not recognize that their chief argument is an argument for abandoning democratic self-government in favor of bureaucratic tyranny.

But the second chief defense of SCAQMD and its dubious plan belies this argument, and begins to move into the deep waters of the long and tortured reasoning behind SCAQMD's bureaucratic approach to cleaning up the air. Confronted with the anti-democratic nature of SCAQMD, the clean air crusaders' second line of defense is "the people want clean air," and they cite opinion polls showing large majorities purportedly in favor of even very expensive abatement efforts. But even the clean air crusaders know this public sentiment is abstract; when the issue is a local plant closure or the direct cost of expensive abatement measures, clean air becomes far more controversial with the public, and public controversy is the foremost thing to be avoided by bureaucracies. That is why it is necessary for SCAQMD to minimize cost estimates for the plan and to devise measures that impose costs indirectly.

What's driving this circus is the whole panoply of arbitrary federal environmental regulations and adminis-

trative law decisions that handcuff the regulatory discretion of policy makers. The Air Quality Act of 1967, which has been amended and reauthorized in more stringent forms several times, and is being revised again by Congress right now, began a process of establishing arbitrary air quality standards along with attainment dates. These standards are uniform throughout the country: the same standard for Los Alamos applies to Los Angeles. The difficulty with this approach is the inexactness of environmental science.<sup>1</sup>

First, monitoring and quantifying air pollution is tricky because air quality is a two-part problem: there are individual sources of emissions, such as cars and factories, and then there is "ambient air quality," i.e. how all those individual emissions combine in the swirling atmosphere, in sunlight and in variable weather conditions, humidity, pressure, temperature, and so forth. Ozone, for instance, is a complex combination of several ingredients, including hydrocarbons and nitrogen oxides, which must bake in sunlight to develop.

SCAQMD measures ambient air quality through an "airshed model," with dozens of monitoring stations scattered throughout the basin to collect raw data. As Shep Melnick of Harvard University explains, "modeling is technically complex, expensive, and inexact. Even the best models supplied with extensive monitoring data may underpredict actual concentrations by 50 percent or overpredict by as much as 100 percent. Models vary widely in their assumptions and predictive ability." The point is, it is difficult or impossible to know precisely how a particular polluter will contribute to the deterioration of ambient air quality on any given day. So policy seeks to impose specific limitations of different sources of emissions, which are enforceable even without being able to show that a source caused a particular ambient violation.

Second, there is no basis in medical science for the particular ambient standards that have been set. Melnick writes: "Most scientists now agree that for most pollutants there is no health effects threshold, that is, a concentration below which there are no serious health effects, and above which there are." A House Commerce Committee report in 1977 conceded that "the 'safe threshold' concept is, as best, a necessary myth to permit the setting of some standards."

In light of the arbitrariness of the uniform standards

1. I am indebted for my understanding on this point to R. Shep Melnick's *Regulation and the Courts: The Case of the Clean Air Act*. (Washington D.C.: The Brookings Institution, 1983).

and the doubtfulness of our technical knowledge, a common sense approach to the problem of air quality would be to set flexible target ranges rather than fixed inflexible standards. This would shift the fundamental basis of policy by encouraging the use of rigorous marginal cost-benefit analysis of pollution abatement measures. After all, the marginal cost of reducing the next pound of pollutant rises rapidly as the extent of control increases. While it might be possible to reduce a pollutant by 50 percent, for, say, \$10 million, it may well cost double or triple for the next 10 percent reduction. Achieving 100 percent of the Clean Air Act standard might cost 20 times as much as achieving, say, just 75 percent of the standard. Even if, Melnick observes, it were possible to attain such levels, "it would not necessarily make sense to spend huge amounts of money achieving these levels instead of using these resources for, say, hospitals and dental clinics." Sensible policy, then, would rank control measures in order of cost-effectiveness, so that policy makers and the public could rationally assess the tradeoffs of the next step of clean-up efforts.

This SCAQMD most emphatically refuses to do. The costed measures of the plan range from as little as 24 cents per pound reduced to \$8.47 per pound. (Some of the uncoded measures are expected to cost nearly \$100 per pound.) The District will not rank their control measures for several reasons. First, the District argues that they really can't apply cost-benefit analysis to their measures because the health benefits of reduced air pollution are difficult to quantify. This semantic hairsplitting wouldn't alone be enough to prevent SCAQMD from at least ranking their measures for cost effectiveness, were it not for the legal visegrip in which SCAQMD finds itself. The legal framework within which environmental policy is made tells us much about why the policies of SCAQMD and so many other bureaucracies seem stood on their head. At the beginning of the wave of federal environmental legislation in the early 1970s, when the EPA was created and mandated to set air quality standards, lawmakers yielded to pressures from environmentalists and others to enable public interest "citizen lawsuits" against federal agencies. This revolution in administrative law has wreaked havoc in the public policy process.

Hitherto, to have legal "standing" in a regulatory matter, one had to have a property right or demonstrable economic interest in the outcome of a regulatory deliberation. Hence, most litigation was brought by indus-

try against the government. As Milton Friedman and others have long argued, regulatory agencies frequently become captives of the industries and interests they regulate, and are turned into co-conspirators against competition in the marketplace. The idea of enabling "citizen lawsuits" on behalf of the amorphous "public interest" is designed to break this phenomena.<sup>2</sup> Of course, in practice what this means is simply the empowerment of new special interests, in this case, highly organized environmental groups. More importantly, it has significantly changed the role of the judiciary, making judges the managers in the administration of the often vague and general goals of legislation.<sup>3</sup>

Here's how it works in the air quality arena. The Clean Air Act amendments of 1977 set 1982 as the deadline for attainment of the federal standards, with an extension to 1987 possible. Los Angeles, of course, was nowhere near attainment by 1987, let alone 1982, although air quality in Southern California has been steadily improving for several years. In 1984, Mark Abramowitz, a recent graduate of UCLA, decided to bring a citizen lawsuit against the EPA for failing to attain the air quality standard by the statutory deadline. Abramowitz's group, the Clean Air Coalition, was so impoverished that it couldn't afford a lawyer. So Abramowitz just typed a one paragraph complaint, and mailed it to the U.S. Ninth Circuit Court of Appeals. A few weeks later the EPA phoned Abramowitz, wondering if he would consider an out-of-court settlement. What were his terms?

Within this tortured legal framework administrators have little discretion or flexibility in making, implementing, or adapting policy. Economic rationality, such as the ranking of the cost-effectiveness of control measures, is irrelevant when policy is dominated by a legal straitjacket of rigid standards and deadlines, rather than deliberations about what policies would actually best serve the general interest. In short, SCAQMD is under a court-ordered mandate immediately to implement a draconian plan. California's lawmakers have made the situation worse. The California Clean Air Act, written chiefly by Assemblyman Byron Sher (D - Palo Alto) requires areas in nonattainment achieve a 5 percent reduction in air pollution every year. And already the Clean Air Coalition and other environmental

2. Citizen suits were also seen by the Democratic Congress as a powerful means to prevent executive branch sabotage during Republican administrations.

3. See Jeremy Rabkin, *Judicial Compulsions: How Public Law Distorts Public Policy* (New York: Basic Books, 1989).

### An Air Pollution Glossary

There are four principal groups of air pollutants with which the SCAQMD plan is concerned, and for which Los Angeles fails to meet the federal standard. They are:

- ROG Reactive Organic Gases. This category comprises carbon monoxide and the variety of sulfate compounds generated by automobiles and given off by widely-used chemicals such as paint and solvents.
- NO<sub>x</sub> Nitrogen oxides.
- Ozone A complex combination of base pollutants, including hydrocarbons and nitrogen oxides, which must bake in sunlight to be generated.
- PM10 Fine particulate matter, such as diesel smoke and dust. This is what gives smog its brown color.

### Sources of Pollution in the Los Angeles Area

|                   |                         |
|-------------------|-------------------------|
| Cars—40%          | Petroleum—7%            |
| Trucks—13%        | Miscellaneous—8%        |
| Residential—13%   | Electric Generation—3%  |
| Manufacturing—12% | Other Mobile Sources—4% |

groups are saying that the plan isn't strict enough, and hint that they'll sue when the next deadline is missed.

Given this legal and statutory hammer, it is perhaps surprising that SCAQMD's plan isn't even more severe. For although the plan is severe regarding stationary industrial sources of pollution, it scarcely touches the source of nearly half the air pollution in the L.A. basin — cars. Occasionally it is threatened darkly that if air quality doesn't improve, someone (usually, it is hinted, the EPA) will restrict auto usage or even limit the number of cars a household could own. This is an empty threat, and SCAQMD knows it. But if you consider the way mobile source pollution is handled in the plan, it becomes apparent the measures were crafted to have the least possible direct effect on the general public, which is consistent with the first rule of bureaucratic politics: don't cause a controversy with the public.

SCAQMD's plan is brilliant at diffusing its costs and burdens, and its treatment of mobile sources provides the best proof of this. SCAQMD hopes to reduce auto emissions through vastly increased use of carpooling, and an improved "jobs/housing balance" throughout the region, i.e. they hope people will live closer to their jobs, and hence commute shorter distances. But the plan contains no measures that act directly on drivers to accomplish this. Instead, SCAQMD will require busi-

(Please turn to page 24)

# Forum

*William Rusher is a lawyer, journalist, and political activist who has long been a central figure in America's post-war conservative movement. Rusher served as publisher of William Buckley's National Review from 1957 until his retirement earlier this year. He played a major role in Barry Goldwater's successful campaign for the 1964 Republican presidential nomination, the candidacy that established conservative control of the GOP and laid the groundwork for Ronald Reagan's election 16 years later. He now spends a major part of his time in California, maintaining a residence in San Francisco and serving as Senior Fellow of the Claremont Institute and Vice-Chairman of the newly-formed George Washington Society.*

**California Political Review:** *Why would a life-long New Yorker choose suddenly to spend so much time in California?*

**Rusher:** The kind of life I've lived, which has involved me in politics and political commentary about American affairs, almost necessarily obligates a person, I think, to live and work in what's called the Bos-Wash corridor — Boston to Washington corridor. I don't mean it can't be done elsewhere, particularly if you represent some other part of the country and come to Washington. But it seems to me that the corridor is where most of the action is taking place in these matters, decisions, and commentary. So, I was more or less obligated to live here.

I have wanted, just as a personal matter, to live in San Francisco since 1956 when I first went out there to attend the Republican convention. More than anything else, I think I liked the weather. More than any other single thing, that tempted me to spend more time out there, as I now intend to do.

**CPR:** *San Francisco isn't usually considered particularly congenial to conservatives. Any qualms about that?*

**Rusher:** Neither is New York City, you know. I've lived nine blocks from Times Square for 40 years without being unduly contaminated by it. I did not mean to say I was planning to enter the municipal poli-

tics of San Francisco. I'm not. But it's not essentially that much different from any other big city. They tend to be run by liberals, or even leftist crazies. My own feeling, from a distance, has been that the Republican Party and the conservatives might do a great deal more with the Asian element of the San Francisco population than it seems to me they've done. I have great respect for the Oriental peoples for their work ethic, for their general attitude and I think, perhaps, an alliance could be made there if anybody would bother to try. I'm not sure anyone has seriously tried very hard.

**CPR:** *An interesting example in California involves our Secretary of State, March Fong Eu, a Democrat whose son is a Republican activist.*

**Rusher:** That's interesting, and not at all surprising to me. I might add that I think more can be done with the Hispanic population of California than has been done, although there I do not anticipate that we will ever get a majority. But you don't need majorities of all these ethnic populations. If you can get a decent minority of the Hispanic population, and a majority of the Asian population, you'd be well on your way in California.

**CPR:** *I'd like to discuss the conservative movement. Despite its success in electing a conservative president, government still grows larger every year and we can't seem to sustain support for the Nicaraguan resistance. Was Ronald Reagan's election over-emphasized, to the neglect of more permanent objectives? Has his departure deprived the movement of a clear purpose and direction?*

**Rusher:** I'm not worried about the conservative movement. The movement was very lucky over many years. First, it had Barry Goldwater as its sole and visible political champion and no sooner was he defeated in 1964 than Ronald Reagan rose out of the ashes and became twice president of the United States. That is not the way the world generally works and conservatives, I think, have felt a little bit bereft since, now that Reagan has retired, somebody has not risen to be their knight in shining armor. As a matter of fact, there's any number of contenders for the leadership of the conservative movement. It's a much bigger movement than it used to be and there are going to be numerous contenders from now on.

Virtually every candidate for the Republican presidential nomination last year insisted that he was a con-

servative. Probably most of them were, at least in relative terms. So conservatism is going to be, to borrow a phrase of Mao Tse Tung's, the sea in which the Republican party swims, for a while at any rate.

In addition, the exterior situation is changing. It was very simple for us to have a foreign policy — just be anti-communist, that's all. And that meant supporting

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*Naturally, at a time when international communism is collapsing like the one-horse shay, it is going to be harder to whip people into the old enthusiasms for simple anti-communism.*

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the Contras, to take the case that you mentioned. Naturally, at a time when international communism is collapsing like the one-horse shay, it is going to be harder to whip people into the old enthusiasms for simple anti-communism.

Let's take a domestic issue: that the government isn't getting any smaller. Well, no, it's not getting any smaller, but if there's one constant theme in American politics today it's that there's no money for anything. We have got them absolutely stymied on the subject. It's not true there's no money at all. But there isn't nearly as much as the Democrats love to play with, and they complain bitterly that they haven't got the money they want to spend on education, they haven't got the money they want to spend on drugs, they haven't got the money they want to spend on child care, they've only got a hundred lousy million dollars for the Poles, and only 25 million for the Hungarians. Good Lord, that wouldn't last a Democrat in full career for a day.

*CPR: But isn't that just a tactic? Demand twice what you want to reach your real goal.*

**Rusher:** But they really haven't been able to launch any new appropriations of any magnitude. That *does* give them the back-benefit of being able to cut some Pentagon programs. But there can't be any big-spending measures as long as Bush manages to keep the spigot tight on taxes. You can't play liberal poker without chips.

Now, with regard to Democrat control of the House of Representatives, it's inexcusable and I think partly our fault. I think the Republican minority is rather content with the arrangements that have been made for the reelection of incumbents. I think we have not done

nearly enough battling for the state legislatures, which are controlled by the NEA, in large part, and, certainly, by the liberals.

I think that we ought to launch a massive attack on the whole notion that it is high minded to split your ticket. People split their ticket just to show that they wear no party's collar, but the fact of the matter is that they're voting for intellectual incoherence and political instability.

There isn't a government in western Europe that wouldn't fall the very day the situation developed that's been the standard system in the United States since the end of the second world war: a congress of one party and a president of the other. That is simply inexcusable. The cause is in large part gerrymandering and, for the rest, this nasty habit. The voters who do it seem to think they're smart, that they're, sort of, contributing to the separation of powers when they split the government this way.

For God's sake, if you really want a Republican president, give him a Congress that will work with him instead of trying to cut him off at the knees. If you really can't stand to vote against your dear old congressman, vote for him, but then, if he's a Democrat, vote for Dukakis or vote for Jackson or whomever, up the line, is at the top of that ticket.

*CPR: But the voters seem habitually erratic. Californians successively elected Governors Pat Brown, Ronald Reagan, Jerry Brown, and George Deukmejian. Can we say the movement is making progress when the voters zig-zag back and forth this way?*

**Rusher:** Well, the movement can only matter politically to the extent that it commands voter support. Now I think the conservative movement commanded a tremendous amount of voter support until fairly recently and the only reason why, if it's true, that the movement now commands less support is not that people have become less conservative but merely that we have managed to address most of the things that concerned us.

Certainly, the Cold War situation is gone, it seems to me, although I know inconsolable conservatives who disagree. But I think it has gone in our direction and I think it's going to go further in our direction.

As far as problems at home are concerned, I think many of the problems we used to complain about — outrages of welfare, for example — have diminished. Now, other problems, which in many cases are second

generation problems caused originally by welfare — the drug problem, the child care problem, the homeless problem — are to some degree new and must be addressed by conservatives according to conservative principles. And that is being done in such studies as Charles Murray's and in George Gilder's books, very shrewd and careful analyses of what is really going on and what should be done.

*CPR: And where are the liberals at the end of the Eighties?*

**Rusher:** Liberals as we knew them in the '50s and '60s and '70s, I think, are on their last legs. Every single idea they had has turned out to be a bad idea and is

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*Liberals as we knew them in  
the '50s and '60s and '70s are  
on their last legs.*

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known to be a bad idea and has been retreated from in most cases. There remains endemic in human nature something that you can call liberalism if you want to. That is the impulse on the part of a lot of people to take money from people who have it and give it to people who don't, particularly if it's somebody else's money. As Will Rogers said, he could remember all the way back to when liberals were generous with their own money.

And generosity is only a part of it. There is the whole concept of the non-responsibility of people for their plight. That kind of attitude is, as I said, endemic in certain parts of the human race. You're not going to get rid of it. People are going to want to attack serious social problems with redistributive mechanisms that simply aren't going to work. That impulse is going to be around but, frankly, I don't think liberalism is a connected viewpoint in quite the same way that conservatism has become during the last 35 years. I don't mean that there aren't leftist viewpoints that are connected. God knows communism is a systematically worked out view of human affairs. But liberalism is nothing more than — as Holmes said in one of his letters to Laszki about socialism, it never got far beyond "look at the big house and look at the little one."

*CPR: Liberalism remains, nonetheless, a dominating force in many areas of American life, particularly journalism, as your recent book, The Coming Battle for the*

*Media, points out. Should conservatives become more involved in political journalism?*

**Rusher:** My contention is that the so-called media elite — a fairly small group centered in New York and Washington: the three major networks, the *New York Times*, the *Washington Post*, the Washington bureau of the *Wall Street Journal* and *Time* and *Newsweek* — just about unanimously represent the liberal position. They're going to tilt the pinball machine their way whether we like it or not. The book cites case after case of their having done just that.

I think, too, that there are far more conservative journalists coming along out of the colleges now and in 10, 15, or 20 years they will begin to make their weight felt at the national level. But just at the moment the levers of power are almost completely controlled by far-out liberals. I quote in the book a Richard Cohen — not the columnist in Washington, but the man who, at the time, was head of foreign news for the Columbia Broadcasting System — bragging about how he could form the consciousness of the American nation on the subject of South Africa by the artful use of tight-up shots of blacks rioting and so on. "Form the consciousness of America" was the way he put it. And he isn't the only man who loves what he's doing and is doing it deliberately.

I think they have to be constantly and repeatedly nailed by name, and more of that is being done. A particularly effective organization based in Washington, Media Research Center — they publish "MediaWatch" — did not exist three years ago. In California, a publication called *Between the Lines* monitors media bias. It didn't exist two years ago. Another one, put out by the Lichter organization in Washington, didn't exist three years ago. So I think the media will be watched more carefully now.

*CPR: What do you consider, looking back, to have been National Review's greatest achievement since its founding?*

**Rusher:** The major accomplishment of *National Review* took place 30 and more years ago. It was clearly perceived in advance by Bill Buckley when he founded the magazine and it did precisely what he said it was going to do. He said, in effect, that he was going to express the conservative viewpoint and, by implication, develop it, knit it together, and he did exactly that. By 1960 you had in this country, thanks largely,

although not entirely, to *National Review*, a coherent, conservative critique of both foreign and domestic policy applied to events.

From 1960 or '61 forward, people closer to the political scene began perceiving and agreeing with this viewpoint and giving it political expression. People in the Republican Party eventually — very quickly in fact, in 1964 — took it over with the nomination of Barry Goldwater and never gave it back again. The liberals never recaptured the Republican Party. Nixon represented, in my opinion, an unfortunate detour not so much into liberalism as into a sort of Machiavellianism. We had to go through that, suffer the consequences of it, get rid of it, and surmount it, before we could come forward as we eventually did and as I think we were destined to do with Ronald Reagan.

But *National Review* after 1960 became mostly a commentator on the political developments it had done so much to bring about. By definition, therefore, its future will have to be different because as I said earlier, we have a much larger movement now, with many tendencies and personalities in it. *National Review* is going to play an honorable and large part in the whole process. But it won't have the whole show to itself. It could not, and should not, the way that it did in the late 1950s.

*CPR: What, then, is the role of a conservative political journal today, particularly one published in California, far from the Bos-Wash corridor?*

**Rusher:** California does suffer from parochialism, although I think that is much less true than it used to be, and I certainly welcome publications like the *California Political Review* to lighten the load here. California is such a huge state and so absolutely central in importance to the American experience that what goes on there is vital in a way that what goes on in Delaware

can't be, even though Delaware is perhaps more strategically located.

And I think that what you're probably seeing now is a growth in California — perhaps somewhat later than it developed in the East — but nonetheless a growth in the conservative movement out there. The Claremont Institute, of which I am a Senior Fellow, was only founded in 1978. You're just getting your publication started. I just became vice-chairman, under Bill Allen, who is chairman, of a conservative outfit called the George Washington Society which Sergio Picchio threw together in Los Angeles just to serve as a kind of an umbrella organization for conservative movements. And there are other things coming along. I have no doubt of that.

*CPR: And isn't there a continuing need to articulate and explain conservative principles, since new generations are always coming along?*

**Rusher:** Oh yes, quite right, although you are not going to have to start knitting the whole fabric of conservatism all over again. You are going to be developing it, you are going to be applying it in many situations, you are going to be extending the thoughts of conservatism rather than reinventing them. It's a good and a sound analysis and it can be used in the state of California just as well as anywhere else.

*CPR: Final comments?*

**Rusher:** I can conclude by saying that my move to California reflects largely, although this is not necessarily the reason for it, my conviction that it follows the direction of world events: toward the Pacific. I hope very much, therefore, not to be disappearing into some unwanted retirement but connecting myself freshly to some of the major trends in American life. CPR

## The Liberals' Regress

(continued from page 13)

son, Matt Fong, is an activist in Republican party politics, recruiting Asian-Americans into the GOP. At their state convention in San Francisco, Assembly Speaker Willie Brown told Democrat party members the "Reagan Democrats' can never be retrieved . . . any energy wasted retrieving them is counterproductive." Tom Hayden, whose campaign to rehabilitate his party's image includes everything from endorsing the death penalty to ridiculing fellow leftists for calling Tiananmen Square China's "Kent State," told the convention "the Democratic Party is itself becoming a minority party." What's going on?

"There was a time when the Democrat party was the party of the people, all the people," said McKeithen the day he registered Republican. "That is no longer the case. In the past decade, the Democrat party has become the party of special interest groups who are out of step with the will of the people. Slowly, gradually, the Republican party stepped forward and became the voice of we the people, rich and poor, Americans who believe in traditional family values, who put God and country first, who work to make things better for future generations, and who do not believe that this country is to blame for all the ills of this world."

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### The Liberal Crisis II

#### Its Causes

SOME LIBERALS blame their setbacks on weak candidates, poor strategy, Ronald Reagan's "teflon" charm, and skillful mud-slinging by Roger Ailes. Looking deeper, Richard Goodwin, a veteran of both Kennedy and Johnson administrations, argues that the Democrat party has lost its liberal "soul" - its traditional role as "the principal engine of change designed to enhance the opportunity of 'ordinary' men and women." Party leaders, Goodwin says, have been bought off, joining Republicans to form the "Washington Party - committed to that thickly obscuring cloud of interests that swarm the streets and chambers of our capital city."

Goodwin's theme is echoed by the Democratic Leadership Council, a group of moderate Democrat elected officials. Council leaders, according to the *Los Angeles Times*, blame "what they call 'interest-group liberalism' for the Democratic decline. This ideological

approach grew from the Depression-born commitment of the New Deal to use federal power to meet the needs of Americans suffering from economic and social disadvantages. But over the decades, critics complain, this outlook came to stand for nothing more than the collective appetites of the interest groups who supported it." Hence, the defection to Reagan of millions of "ordinary" voters who felt "neglected" by the dominance of "special interests."

But the division of America into competing "special interests" already existed in the New Deal assumption that federal power must be used "to meet the needs of Americans suffering from economic and social disadvantages." Taxing and regulating the majority to benefit specially-favored Americans is special interest liberalism. All that's happened "over the decades" is that some groups have learned better how to take advantage of the system and are crowding out their less skilled or less aggressive competitors. Nothing's changed in the basic tune: as state Senate President David Roberti told Dan Lungren at Lungren's state Treasurer confirmation hearings: "There should be a pro-active and activist government to redress grievances and to equalize disparities in society." Not only is this approach divisive, it is bound to fail because it looks to government, rather than the people, to solve life's problems.

LIBERALS THINK of government power as a sort of magic elixir that can cut through all of life's difficulties, making everything easy and everyone happy. It's a childish delusion that typically afflicts people who have had it good for too long and are growing decadent: why must we suffer so? With such wealth and power all around, surely we no longer have to endure work and pain. Sound silly? Try this (from Jeremy Larner and Irving Howe in *Poverty: Views From the Left*): "In a nation as rich as the United States, it is an utter moral scandal that even the slightest remnant of poverty should remain." These people talk this way and expect to be taken seriously, as though the wealth came from nowhere and only needed to be passed around to one and all. That *people* create this wealth through hard work is ignored, as are all the intricate economic, social, and political arrangements a free society allows people to make - arrangements that, in turn, make the production of wealth possible. That production is taken for granted and it is presumed that all that's necessary is for government to orchestrate a happy division of the pie. One year after the passage of Hubert Humphrey's 1964 Civil Rights Act, which held

"equality of opportunity" as its objective, Lyndon Johnson was talking publicly about using government to achieve "equality of outcome." The "next and most profound stage of the battle for civil rights," Johnson said, would be "not just [for] equality as a right and theory but equality as a fact and equality as a result" — guaranteed by government. Liberal policies fail because, as far as the real world is concerned, they don't even try to succeed. The whole idea is that this magical thing *government*, not people, will do the work. Thus, the liberal mission begins and ends with fighting for political power. Once that's won, they find themselves unprepared actually to solve anything.

"...[C]rusades cannot wait for the details to be worked out," wrote Stuart Butler and Anna Kondratas in *Out of the Poverty Trap*. "And so it was with [President Lyndon] Johnson's Great Society. The attitude in the White House, a Johnson biographer, Doris Goodwin, observes, was: 'Pass the bill now, worry about its effects and implementation later.' Little time was spent on thinking through the implications of 'creative federalism,' the nebulous term Johnson used to describe far-reaching changes in the federal relationship, but much was devoted to striking bargains with governors and Congress. 'There seemed to be few among the principal officers of government who were trying to determine how the programs could be made actually to work. The standard of success was the passage of the law.'"

The liberal vision of government as solution, from Roosevelt to Roberti, produced both the policy failures and the zero-sum game of special interests jockeying for power that engulfs, and dismays, the Democrats today. The creaking, derelict condition of liberalism at the end of the '80s is the unavoidable product of its own vision.

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### The Liberal Crisis III

#### The Conservative Opportunity

WHEN HE was still a young boy, British writer Malcolm Muggeridge received a toy printing set as a gift. He used it, he says in his autobiography, "to print off my first composition. It was a story of a train going along very fast and, to the satisfaction of the passengers, racing through the small stations along the track without stopping. Their satisfaction, however, turned

to dismay, and then to panic fury, as it dawned on them that it was not going to stop at *their* stations either when it came to them. They raged and shouted and shook their fists, but all to no avail. The train went roaring on....It was not until much later that I came to identify the passengers in my train as Lord Beveridge, Sidney and Beatrice Webb, Kingsley Martin, Eleanor Roosevelt, and any number of progressive prelates, mahatmas, millionaires, regius professors, and other such eminent persons."

America's liberal train began by bypassing traditional concerns about politics invading courtrooms, about the dangers government poses for freedom and self-reliance, about anti-Western tyrannies gaining power abroad. But the train wouldn't stop when America left Vietnam; it plowed forward to find Pol Pot and the Boat People. It didn't stop with protecting the rights of the criminally accused; it roared along to the judicial parody of Rose Bird. And it wouldn't stop with providing a hand to the poor; it has chugged steadily onward to bring us deepening dependency, family breakdown, crime, gangs, drugs, and a preposterous, bloated bureaucracy more concerned with, and certainly more capable of, feeding itself than helping the poor.

LIBERALISM'S DAY is passing, but what will take its place? Ordinary Americans never believed the fundamental propositions that America is bad, that individuals can't help themselves, or that government can or should solve our problems for us. They've known all along that the distribution of wealth and power is of negligible importance compared to the provision of freedom, the maintenance of strong families and a stable social fabric, the development of moral character, and the encouragement of initiative and individual responsibility. This conservative wisdom is what *should* take liberalism's place. It will do so if it is articulated continuously and steadfastly defended, starting now. California conservatives should participate far more in the political, cultural, and social debate, through books and periodicals, in education, and in the arts. *California Political Review* exists to engage in and encourage this activity. Our central guiding theme is a simple truth eloquently expressed by Alexander Solzhenitsyn:

"Gradually," he wrote, "it became clear to me that the line separating good and evil runs not through states, nor between classes, nor even between political parties, but right through the center of each human heart. And every human heart."

CPR

## The Clean Air Crusaders

(Continued from page 17)

nesses as small as 25 people to develop ridesharing plans for its employees. These plans must be approved by SCAQMD. Companies that fail to comply (and even SCAQMD expects a high rate of noncompliance) or whose plans are deemed inadequate face steep fines. Surveys have shown that residences of employees of even very large companies are too dispersed for this plan to be effective.

An even more bizarre measure aimed at reducing auto emissions is the growth management plan, which seeks to reduce traffic on the freeways by midwiving a more favorable jobs/housing balance during the next 20 years. The growth management plan originated as a transportation "demand management" strategy of the Southern California Association of Governments (SCAG), which projects that, if "demand management" is not implemented, daily trips on southland freeways will increase from 40.2 million in 1984 to 57 million in 2010, with average freeway speed declining to 19 mph or less. SCAQMD seized on growth management as a control measure when they figured that a reduction in traffic congestion translated into an emission reduction.<sup>4</sup>

Heavily suburbanized subregions of the area such as San Bernardino and Riverside Counties are "housing rich" and "job poor." The jobs/housing balance for the subregions can be expressed as a ratio of jobs per household. San Bernardino and Riverside Counties have ratios around .8, while Orange and Los Angeles Counties have ratios of about 1.4 jobs per household.

This objective sounds reasonable, but it has a number of large holes in it. First of all, a favorable jobs/housing balance is coming about as a result of natural market adjustments anyway, making the Growth Management Plan wholly unnecessary. In addition, the plan could backfire by hamstringing local economies and thereby standing in the way of, or preventing, the very adjustments and outcome it is designed to achieve. The policy depends upon the accuracy of the very gloomy economic and demographic projections,

for which there is a lot of reason to have serious doubts. SCAG projects that, if the plan is not adopted, San Bernardino County will have a jobs/housing ratio of .61 by 2010 — worse than it is now. SCAG projects only a 2.9 percent job growth rate for the County. But of course job growth in San Bernardino County has been among the very highest in the U.S. over the last few years, averaging 6.9 percent per year. An economic forecast by Wells Fargo Bank predicts job growth in San Bernardino County will average 4.4 percent a year between now and 2010, which would yield a jobs/housing ratio there of 1.37. Similar numbers apply to Riverside County. In other words, the growth management plan may be seeking to solve a problem that doesn't exist.<sup>5</sup>

Through the growth management plan, SCAQMD is going to get into the land use planning business, first by asking local government to adopt ordinances to encourage jobs/housing balance, and then by reviewing planning decisions on a project-by-project, city-by-city basis. If cities are not complying with the forecasts for housing and job growth, SCAQMD hints it may step in and force cities to comply through its broad "indirect source review" powers. In either case, SCAQMD will now be involved in trying to micromanage important sectors of the Southern California economy.

Now, if all of this were to happen according to plan, SCAQMD claims that there would be a 45.5 tons per day reduction in reactive organic gases (ROG) from cars — *starting 15 years from now*. But there is serious reason to doubt whether — even if the assumptions of the plan are correct — these reductions would really be obtained, since other parts of the plan (and President Bush's clean air plan) call for alternative fuel and other advances in auto technology that will greatly reduce auto emissions anyway. SCAQMD seems to be cheating, or at least double-counting, the net air quality benefits of a jobs/housing balance.

Why go through this cumbersome plan in the first place? Part of the reason is the aforementioned legal requirement to come up with a plan that — on paper at least — can demonstrate compliance with the federal standard. And at least in part it seems to be the bureaucratic imperative of getting all phases of commerce un-

4. It is important to understand that reductions in auto pollution under the growth management plan come mostly from vehicles running at higher speeds, rather than just fewer vehicles. In other words, traffic congestion is the major contributor to emissions, because slow-running engines pollute more.

5. For a more complete analysis of the growth management plan, see my "Clean Air Through Growth Management: Panacea or Bureaucratic Excess?", published by the Claremont Institute.

der its purview, in such a way that the public seldom if ever feels the direct effect of the policy.

If SCAQMD really wanted to reduce automobile pollution and traffic congestion, it would start with the recognition that auto usage is substantially underpriced through the variety of subsidies that have evolved in our auto transit system. Making drivers pay the true cost of using their cars would be the first step in providing an incentive for people to alter their driving habits. More directly, peak-hour road pricing for our freeways would provide a direct incentive for carpooling and for drivers to alter their freeway habits. (There is some evidence suggesting that much of the increased congestion of L.A. freeways is from non-work related driving. Peak-hour road pricing would clear some of this out.) Most importantly, such a policy would reduce auto emissions now, not 15 years from now.

An even more bold proposal would be an auto buy-back plan. It turns out that pre-1980 vehicles are 20 times more polluting than post-1980 vehicles. One-third of the cars in Los Angeles today are pre-1980 models. If you took these cars off the road today, we would get one-quarter of the way to the federal air quality standard. When the Claremont Institute proposed this idea to SCAQMD (along with a means of privately financing the estimated \$1.2 billion price tag), SCAQMD replied that the idea was "ludicrous."<sup>6</sup> A more substantive objection to this idea is that over time these cars will be removed from the road anyway, and thus we will get these reductions eventually. But auto buy back would provide the time, within the strict dictates of the 5 percent progress per year law in California, for new technologies and other less costly and less intrusive measures to be developed.

More generally, an effective air quality policy would seek to develop a system of incentives and markets for pollution reduction that would encourage the rational calculation of incremental tradeoffs of different control strategies. Such a policy would have a system of tradeable credits for pollution reductions. The policy would begin not by mandating special control measures, but by setting a quota for each company or companies within a geographical area (or "bubble" as has occa-

sionally been used) — say, 20 percent reduction in emissions over a specified period of time. Then it would be left up to the individual companies to decide how best to meet the quota.

For example, if Company A, a chemical processor, faces pollution reduction costs of \$100,000 per ton of pollution reduced, while Company B, a large bakery, faces reduction costs of only \$10,000 per ton, it would make more sense for Company A to pay Company B's costs to reduce an equivalent amount of pollution. Or Company B could reduce its emissions beyond the quota required, thus earning a "pollution reduction credit," which could be sold to another company. Clean up thus becomes a profit opportunity by creating an economic marketplace for pollution reduction, while still effecting a net reduction in air pollution. Or, similarly, our fictional Company A could reduce its emissions by buying and taking off the road pre-1980 cars, or by getting more employees to carpool, thus reducing mobile source pollution. In addition to the rational calculation of tradeoffs and the economic efficiency this would introduce to the problem, policy makers should have the discretion to say "enough" when the marginal reduction cost begins to get above a reasonable level, and be able to redirect resources to other aspects of the problem, such as health services for people especially sensitive to air pollution. This will require a change in the federal law to allow some flexibility by the EPA in the application of air quality standards.

Critics of SCAQMD's plan hold the slim hope that Southern California's experience may yet prove a turning point in environmental policy, as its excessive bureaucracy and ineffectiveness become increasingly apparent to thoughtful policy makers. A few environmental organizations, such as the Environmental Defense Fund, have begun to understand that a market-based approach is far superior to bureaucratic command-and-control. And Sen.s Timothy Wirth (D - Colo.) and John Heinz (R - Penn.) sponsored a report called "Project 88," in which environmentalists, academics, and government officials agreed that market-based policies are the way to go. SCAQMD's unwillingness to consider incentive-based, market-oriented strategies is typical of the arbitrary bureaucracy that characterizes most environmental policy today. While SCAQMD's publicists are hailing their plan as a "model for the nation," what they've really created is a dinosaur, a museum piece of regulatory morass that will likely be effective only at disrupting the economy and corrupting local politics in Southern California.

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6. The Claremont auto buy back plan was a voluntary program which would pay an average price of \$1,500 for pre-1980 cars. In most cases, the seller would be able to purchase or make a substantial down-payment on a post-1980 used car. Companies facing pollution reduction mandates would be permitted to buy pre-1980 cars to meet their pollution reduction quotas.

## Criticus

### But I Know What I Like

G. B. Tennyson

JUST AS the controversy over government "censorship" of the "art" of Robert Mapplethorpe was dying down, the president of the University of California issued an edict one might well have thought would stir the media into frenzies of concern about censorship all over again. Strangely, the media have been silent on this topic, despite its obvious relevance to that media favorite, the First (the media's only?) Amendment. But where fools fear to tread, this angel will rush in, for the two incidents — Mapplethorpe and the University of California decree — have certain eerie similarities.

As best one can determine — for the precise meaning of the "policy" (the official term for the ukase) is already in dispute — the University will henceforth expel — yes, *expel* — students guilty of "verbal harassment" on campus or at university-sponsored activities (football games? concerts? dorm bull sessions?). "Verbal harassment" is taken to mean spoken or written "fighting words," which in turn are construed (according to the UCLA student newspaper) as words "widely known as derogatory references to race, ethnicity, religion, sex, sexual orientation, disability, and other personal characteristics."

Now, on the one hand we all know that what is going on here is the liberal equivalent of waving the flag and that the prohibited words and expressions will be those (and

only those) that give liberals the willies. (The origin of that term is obscure but it is believed not to refer to any group of people named the Willies; nor does it here carry the current British slang meaning.) This is why the media have remained silent. Who can quarrel with such an eminently "sane" policy. On the other hand, there's no point in calling special attention to it. Why risk stirring up the public? People might then want to see a list of prohibited terms? Or even suggest that expulsion might be a shade severe for an insult shouted from the frat house during a beer bash? Or worse yet, what if the public dared call the "policy" censorship? Or, horrors, what if the lawyers found out?

By contrast, the media had not been silent on the Mapplethorpe case and its connection with censorship. How objection to government funding of an artist's work translates into censorship was left vague. Thomas Hoving, former director of Metropolitan Museum of Art and a proponent of the view that the anti-Mapplethorpe crusade was censorship, was asked precisely that question in a radio interview — how does opposition to public *funding* of such work as Mapplethorpe's become censorship? Surprisingly for someone as articulate as Hoving, his answer was rather incoherent, filled as it was with denunciations of Jesse Helms as a latter-day Joseph Goebbels, but it seemed to translate into the doctrine of the slippery slope, more or less the equivalent of the Music Man's warning that a pool hall in River City can only lead to widespread Sin. Once let Jesse Helms prevent an artist from feeding at the federal trough, and you are on the way to full-scale federal

censorship. Even allowing Helms to raise his point brings us dangerously close to a discussion of what constitutes art and whether it has a moral component. How dare you!

WELL, LET us not mince words about it. Though no one — least of all Hoving or the President of the University of California — has actually used the Deplorable Word in any of these contexts, what is really at issue is the S-work, Sin. The sin in both cases is what used to be known as blasphemy. The difference is whose religion is being blasphemed. Mapplethorpe's "art" blasphemes the Christian religion. The student who engages in officially defined "verbal harassment" blasphemes — well, what exactly? The only answer is the Liberal Religion. In the case of the former you run the risk of *perhaps, maybe* not gaining a government grant. In the case of the latter, you will be expelled from the University of California and your record will presumably be marked with a scarlet letter to alert other institutions to your depravity. Like Mr. Gladstone's falling into the Thames, not getting a grant from the U.S. government is a misfortune; but like Mr. Gladstone's being rescued from the Thames, not being able to get one's college degree is a calamity. The former, if it is inflicted, is done so for works so repulsive that no defending publication will reproduce them; the latter, if inflicted, is done so for words in common, fi inelegant and uncivil, use.

Muslims are prepared to kill Salman Rushdie for blasphemy against their religion. Enlightened Opinion thinks that is outrageous. The Government is prepared to cancel an exhibition for blasphemy against Sen. Helms's religion and

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possibly to think twice about funding similar ventures in the future. Enlightened Opinion thinks that is equally outrageous. The University of California is prepared to expel students for blasphemy against its religion. And yet Enlightened Opinion has said not a word.

There is, however, a solution to this problem. Liberal compassion must be made to live up to its professions. All persons, including undocumented workers, convicted felons, the homeless, lovers of the art of Robert Mapplethorpe, and those who have even been denied auto insurance for any reason, should be allowed to nominate words and expressions that they would find objectionable if used against them and to have these entered into a data bank ready for constant updating and regular posting on bulletin boards throughout the UC system. Use of these words will result in instant expulsion and perhaps obviate the alleged need for three more UC campuses. And if we add faculty to the category of the expellable, we could solve many other problems as well. So herewith I nominate a few terms that ought to do the trick: Wasp, troglodyte, reactionary Republican, right winger, arch conservative, redneck, running dog of fascism, fascist hyaena, cryptomonarchist, Thatcherite, Reaganite, and capitalist tool. Of course, these may already be on the list, which, alas, has not yet been made public. All of us civil libertarians eagerly await its appearance.

In the absence of the official list, there is yet one other, perhaps similar, solution to the whole mess: anyone accused of violation of the edict can simply proclaim his utterance to be Art and cast himself on the mercy of the media.

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## Books

### Rediscovering Reality

*Straight Shooting*, by John Silber, Harper & Row. Reviewed by Harold Johnson

RARE THESE days is the college president whose insights amount to more than a watery distillation of liberal orthodoxy. A stern-minded exception is John Silber, president of Boston University.

Trained as a philosopher, Silber brings to policy debates a belief considered quaint by most of his colleagues in the academy: the notion that moral truths really are true and that we must take our bearings by these verities or woo disaster. Silber's book, *Straight Shooting*, draws together his observations on a variety of diverse subjects with this unifying theme: that a common sense moral code must inform public policy.

He begins by lamenting the free fall in the quality of the grade-school education. Will more money help? Not necessarily, he argues, pointing out that often an inverse relationship exists between spending and student performance. That cautionary note ought to resonate in California, where lavish outlays haven't halted a descent in test scores and where Proposition 98 promises to funnel even more money toward a fat and sassy public-school bureaucracy.

More important than dollars, in Silber's view, is an insistence on high standards. And not just scholastic standards. He argues for reintroducing those no-nonsense nostrums about behavior that were once a standard part of grade-school curriculum — the maxims

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that Kipling referred to in the poem, "The Gods of the Copybook Headings."

"If we have the courage to face reality," writes Silber, "we will know and proclaim these harrowing truths: that the degenerate society consumed in pleasure-seeking will not survive ('the wages of sin is death'), that the society that will not defend its freedom will lose it ('stick to the Devil you know'), that a society that consumes more than it produces will go bankrupt ('if you don't work, you die').... We had better prepare ourselves and [our children] for reality — a reality that is infused with moral laws as surely as it is infused with physical laws...."

Among the "harrowing truths" that society must face in the policy sphere is the failure of social-welfare programs to sever the cycle of poverty. "Unintended consequences...abound in government policy toward poor families," Silber writes, citing programs that encourage poor single women to bear children and discourage recipients from seeking work. Here, too, morality comes into play. Good intentions can't redeem policies that treat the poor as wards of the state. There's moral bankruptcy in condescension masked as compassion.

To be sure, Silber doesn't always see the full implications of his convictions and critiques. His recognition of the poverty of public schools, for instance, doesn't lead him to press for programs promoting private alternatives.

He nevertheless performs the service of reminding us that social problems can't be properly addressed without reference to human nature — and an acknowledgement that nature's laws cannot be repealed.

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## Worth Repeating

# The Republican Era

by Newt Gingrich

I think having Jerry Brown back in California is a lot like having the national Democrats ask Jimmy Carter to be their national chairman. Brown and Carter were symbolically important figures. They were symbolic of the end of a half century of Democrat domination. I think that what happened to them is that they happened to come at the end of the period where Democrat answers made sense.

The fact is, during the great age of the Democrat Party, it was an extraordinary institution. Under Franklin Roosevelt's leadership, it invented modern American government. It invented the modern social contract, it developed enormous power in every state in the union, and then, beginning in the 1960s, it just fell apart.

The generation that came in after 1965 tore the party to shreds in two different directions: first of all, by going towards left-wing values that left behind the common sense liberalism of the Franklin Roosevelt and Harry Truman era, and second, by accepting an ossified, unionized bureaucracy in the welfare state that failed to work; you couldn't get things done.

The result of these two things, bad values and bad structure, tore this country apart and the Democrats couldn't cope with the disaster they had created. If you are really interested in the values part, you should read a book by Peter Collier and David Horowitz called *Destructive Generation*. It is a superb work. They were the two editors of *Ramparts* and, now that they've become adults, they've looked back and said: you know, all our basic values were nuts.

Their values were the precursors of Willie Horton getting out on the weekend, they were the precursors of recreational drugs being safe until you died, they were the precursors of multi-partner sex being safe until you got AIDS, they were the precursors of the world being safe as long as you didn't have Koummeni, Kadafi, or the Soviet Union. What weak values.

*Destructive Generation* is particularly good to give your kids for Christmas because it introduces them to a world

*Excerpted from House Republican Whip Newt Gingrich's speech to the 1989 fall California Republican Party convention in Anaheim.*

they haven't directly seen. Remember how we got into the drug mess we're in? Jimmy Carter's drug advisor was illegally prescribing drugs. He was going to parties for the legalization of marijuana and doing cocaine. Well, when the president's drug advisor does cocaine, it shouldn't shock you if other parts of the country figure it out.

The structural failure of liberalism came with the unionized bureaucracy of the welfare state. Peter Drucker's new book *Real Changes*, and George Gilder's *Microcosm*, make a simple point. Every competitive industry in America is restructuring itself to stay in the world market. They're downsizing, getting rid of layers of bureaucracy, getting leaner, getting better, focusing on quality, treating their workforce better, developing participatory management — all of that is going on as long you are in the private sector.

But there is another 35 or 40 percent of America called government and government-dominated activities, like health care. Guess what? None of those are being restructured. Look at the restructuring of General Motors or Chrysler or Ford or IBM, and then look at education. Look at the restructuring going on in Silicon Valley, and then look at the welfare system. Look at the restructuring going on in telecommunications at AT&T and at the "Baby Bells," and then look at the Defense Department.

One of the greatest intellectual challenges of the '90s is going to be re-thinking the whole pattern and behavior of government and moving into a system where we restructure the government as much as we are restructuring the private sector.

For those of your friends who are liberals and care about the poor, let me point out one salient reality. In the last 40 years, if you're paying for it in the private sector and you are poor, your choices have improved every year, the quality has improved every year, and you've had more real purchasing power per dollar. If you're poor and you've had to deal with the public sector, it has decayed over the same length of time.

So the McDonalds you can now go to if you're poor is dramatically better than the greasy spoon of 1951 but the public housing project you walk back to is dramatically worse. And that's true with every Western country because, as the Russians have discovered, large, centralized bureaucracies don't work.

That is also, frankly, why I am so deeply committed to the no tax increases issue. The fact is, every time we raise taxes in Washington we allow the liberal welfare state to avoid re-thinking what it is doing and we allow the politicians to avoid setting priorities.

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